

MEMO# 27854

January 22, 2014

ICI Mutual Fund Transfer Agent Guide for Foreign Account Tax Compliance Act (FATCA) Implementation

[27854]

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TO: BROKER/DEALER ADVISORY COMMITTEE No. 5-14
OPERATIONS COMMITTEE No. 2-14
TRANSFER AGENT ADVISORY COMMITTEE No. 5-14
TAAC FATCA TASK FORCE No. 2-14
TAX COMMITTEE No. 2-14 RE: ICI MUTUAL FUND TRANSFER AGENT GUIDE FOR FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA) IMPLEMENTATION

The Institute's Transfer Agent Advisory Committee (TAAC) FATCA Task Force has been working over the past eighteen months to develop information to assist transfer agents that are implementing operations and compliance processes and procedures to meet the obligations of the new FATCA rules. Today the Investment Company Institute is releasing the FATCA implementation guide developed by the task force to assist mutual fund transfer agents.

Background

On January 17, 2013, the Internal Revenue Service (IRS) and the U.S. Department of the Treasury (Treasury) issued the final regulations (effective on July 1, 2014) to implement the Foreign Account Tax Compliance Act. [\[1\]](#) FATCA was enacted in 2010 to address concerns that certain U.S. persons, holding assets through foreign financial intermediaries (FFI), were not complying with their U.S. tax obligations. The tax compliance regime created by FATCA, among other things, imposed new reporting responsibilities on FFIs and, in certain circumstances, requires withholding on U.S. source payments.

Following the enactment of FATCA, Treasury also published Model Intergovernmental Agreements (IGA's) to simplify FATCA implementation and improve international tax compliance. The IGA approach to FATCA implementation benefits FFIs located in the countries that sign agreements with the U.S. by resolving local-law legal impediments to compliance (including data privacy and withholding considerations), clarifying the types of FFIs that are treated as FATCA compliant such as retirement plans, and reducing other burdens. To date the U.S. has entered into 20 IGAs with various countries [\[2\]](#).

Transfer Agent Advisory Committee FATCA Working Group

In mid-2012, the TAAC FATCA Task Force was formed to examine the operational considerations and practices related to FATCA. [3] As part of this initiative, the working group developed a guide to provide information to mutual fund transfer agent operations staff that are responsible for the implementation of FATCA. The information in the guide is intended to address considerations for FATCA implementation for transfer agents that are record keeping U.S. domiciled funds. The document does not address FATCA requirements for funds domiciled in jurisdictions outside of the U.S., nor is it applicable to any entities other than mutual fund transfer agents. Key topics addressed in the guide include:

- Operational considerations for U.S. Funds related to the development of policies and procedures to comply with the final FATCA regulations.
- Considerations related to the identification and documentation of a U.S. Funds' existing foreign entity accounts.
- New account on-boarding considerations for U.S. Funds.
- A FATCA Withholding Matrix for U.S. Funds outlining under what circumstances chapter 3 or chapter 4 withholding may apply. [4]
- The various FATCA documentation requirements for U.S. Funds.
- Key FATCA acronyms and definitions.

The guide may be accessed on the ICI's website from the Foreign Account Tax Compliance Act Resource Center web page at http://www.ici.org/pdf/14_taac_fatca_guide.pdf.

FATCA is complex and multi-faceted regulation that will continue to evolve as the Internal Revenue Service (IRS) and the U.S. Department of the Treasury (Treasury) release further guidance in response to issues raised by affected constituents. The TAAC FATCA working group will continue to periodically update the guide in response to further developments.

If you have any questions or comments regarding this project or the above referenced guide, please contact Joanne Kane at 202-326-5850 or joanne.kane@ici.org.

Joanne Kane
Director-Operations & Transfer Agency

endnotes

[1] See Institute [Memoranda](#) No. 26996, dated February 8, 2013, Final FATCA Regulations – A Summary.

[2] See Institute [Memoranda](#) No. 27241, dated May 16, 2013, Treasury Releases Updates to Model FATCA Agreements.

[3] The working group is comprised of 40 mutual fund complex transfer agent representatives and key external service providers.

[4] U.S. tax rules for withholding on payments to nonresident aliens (persons who are neither citizens nor residents of the U.S.) and to foreign corporations are imposed under chapter 3 of the Internal Revenue Code. FATCA's withholding requirements are imposed under chapter 4 (§1471-1474) of the Internal Revenue Code.

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